

## **STUDENT SEARCH AND SEIZURE**

### **Background**

The Division believes that to maintain order and discipline in schools and to protect the safety and welfare of students and staff it is sometimes necessary to engage in search and seizure procedures.

Other than in cases where the health or welfare of a student is in immediate danger or where a crime has been committed or where there is reasonable belief that a crime may be committed by a student and the well-being of other persons is in immediate jeopardy, the Board does not approve of outside personnel coming to the school to question, search or apprehend students unless the parents/guardians are aware of such proceedings or a legal document can be produced authorizing such action to take place.

This procedure applies to situations which arise during school hours and also during the course of any school-sponsored activity.

### **Procedures**

1. It is a matter of law that student lockers and desks are school property and remain, at all times, under the control of the schools, and students shall have no expectation of privacy therein. Searches of lockers or desks may be undertaken for any reason, at any time, without notice and without student consent.
  - 1.1 Parents and students shall be advised of this reality when they are assigned a locker.
  - 1.2 Principals shall ensure that students are so advised on an annual basis.
2. Any search for prohibited substances will be done with due regard for the law. Rules of evidence and respect for the rights of the individual shall be respected at all times.
3. If a properly conducted search yields illegal or contraband materials, the proper legal authorities shall be notified and such material shall be turned over to them for ultimate disposition.
4. A principal or staff member is required to act under reasonable belief or cause that a student is in possession of a prohibited substance or object.
5. The principal shall ensure that sufficient and appropriate records are maintained with respect to all situations governed by this policy.
6. The legality of a search depends upon reasonableness in all circumstances.
  - 6.1 Determining reasonableness is a twofold step:
    - 6.1.1 Whether the action was justified at its inception; and
    - 6.1.2 Whether the search actually conducted was reasonably related in scope to the circumstances which justify the interference in the first place.
  - 6.2 The search must not be excessively intrusive.

7. When there is an issue of custody of children, school staff members shall communicate only with the parent who has legal custody. In order to prevent a misunderstanding, students shall be advised early in the school year that questioning and searches are a possibility if there is reason to suspect that a wrong has been done. It is also recommended that students be so advised through the Student Handbook.
8. In accordance with such provisions as are outlined in various provincial and federal statutes, teachers and principals shall permit social services personnel to investigate a complaint that a child is abused, neglected, exploited or treated cruelly and is in need of protection.
  - 8.1 Principals shall request proof of identity prior to granting permission to question or apprehend a student if there is any doubt concerning such identity.
  - 8.2 Principals shall adhere to procedures detailed in the Division protocol document entitled, "Students at Risk, Child Protection - Abuse & Neglect", when dealing with Social Services personnel, police officers or others involved in the investigation.
  - 8.3 When a student is being apprehended, the principal shall require the apprehending social worker to submit a letter or similar document indicating that the worker is acting in an official capacity in apprehending the student.
9. In accordance with such provisions as are outlined in various provincial and federal statutes, teachers and principals shall permit probation officers to deal with students who have been judicially placed in their charge in such manner as they (the probation officers) deem necessary.
  - 9.1 Principals shall request proof of identity prior to granting permission to question, search, or apprehend a student if there is any doubt concerning such identity.
  - 9.2 When a student is being apprehended, the principal shall require the apprehending officer to submit a letter or similar document indicating that the officer is acting in an official capacity in apprehending the student.
10. In that teachers and principals hold a position of "in loco parentis" while children are at school, it is their responsibility to look after all aspects of the children's well-being. When a law enforcement officer comes to the school to question, search or apprehend a student, the teacher or principal shall:
  - 10.1 Discourage interrogation, searches or apprehension during school hours and on school premises.
  - 10.2 Put forth a best effort to contact the parents/guardians so they can be informed and to ask them to be present if at all possible prior to contact with the student. Should the parents/guardians not be present, remain with the student at all times while the student is in the presence of a law enforcement officer.
  - 10.3 Disallow, other than in cases where a student has committed a serious criminal offence whereby a law enforcement officer has authority to arrest without a warrant, the taking of a student away from the school premises without parent/guardian consent or legal authorization. If legal authorization (warrant or court order) is presented, it is recommended that a copy be taken.
  - 10.4 Put forth a best effort to see that the student is advised of what is taking place and encourage the student to wait until the parents arrive before engaging in discussion with the police.
11. If it is suspected that a student is in possession of an illegal material and therefore should be searched, the principal may:
  - 11.1 Contact the police immediately and also notify the parents/guardians, or
  - 11.2 Notify only the parents/guardians immediately.

## 12. Search of Property:

- 12.1 The locker is the property of the Division and may be searched by the principal in the presence of another Division employee.
- 12.2 The police, with reasonable cause, may conduct a locker search either with or without a search warrant. Authority to search should be requested from the police before a search takes place.
- 12.3 School-based administrators with reasonable cause may search a vehicle on school property if one of the following conditions exist:
  - 12.3.1 The search is a result of a threat to safety;
  - 12.3.2 The search is performed with the consent of the vehicle operator;
  - 12.3.3 There are grounds to believe that a criminal act has occurred in which case the search should be done with the assistance of the police.

## 13. Search of a Person:

- 13.1 The principal is to be convinced that a search is reasonable, based on observation and/or preliminary investigation.
- 13.2 Any search conducted at the school shall have the principal as well as an adult witness present. The principal shall respect propriety and modesty.
- 13.3 A principal must not conduct a total body search. Such a search is only within the purview or authority of the police.
- 13.4 When it is necessary to conduct searches involving female students such searches shall be done by female staff members. When it is necessary to conduct searches involving male students such searches shall be done by male staff members.

## 14. Police Interrogations and Searches

- 14.1 In general, all searches by police officers shall be by search warrants. However, police may conduct drug searches, searches for prohibited weapons, restricted weapons, or firearms, or searches under the Customs Act and the Liquor Act without warrant as provided by law. In each such case, the principal will report the circumstances immediately to the Director.
- 14.2 In all circumstances the parents or guardians are to be notified of any searches before they take place if possible, or as soon after the search as is possible.
- 14.3 Where, in the course of their duties, police officers find it necessary to search an area of the school, the principal or a teacher designated by the principal shall accompany the officers on their search. Authority to search is to be requested from the police before a search takes place.
- 14.4 When a member of the police detachment finds it necessary to interview a student during school hours, the officer will be expected to report to the office of the principal and make known the purpose of the visit. Authority to interview is to be requested from the police before an interview takes place.

Any infraction of the procedures set out above must be reported to the Director.

When interviews are conducted on school premises, the police officer in charge shall inform all witnesses or suspects of their legal rights before such interviews take place.
- 14.5 If a student is to be removed from the school by police officers, the principal or another staff members shall provide sufficient information to the police to enable them to contact the parents/guardians. Should the police not contact the parents/guardians, the principal shall do so except in circumstances which would jeopardize the investigation.
- 14.6 Whenever legally permissible, the principal or a teacher assigned by the principal shall be present at any interviews which take place between police officers and students in school.
- 14.7 Where the police wish to conduct an interview with a student on the school premises, the following guidelines shall be in effect:
  - Prior permission is to be obtained from the parents, or
  - The police are to provide evidence of authority to conduct the interview.

- 14.8 Where the police wish to conduct an interview with a witness/potential witness on the school premises, it is not necessary to follow the procedure outlined above. Witnesses/potential witnesses are not suspects and therefore do not run the same risk of having rights violated. However, it is still expected that an attempt to contact parents/guardians will be made prior to an interview. It is advisable for the principal or vice-principal to be present at such an interview if it is deemed desirable that it be held on school premises. Where a serious crime is involved, an alternate location for the interview, determined in consultation with the parent/guardian, may be more appropriate.
- 14.9 Where the principal conducts a search or interview with a student and the student is subject to school-initiated disciplinary action only, the following guidelines are in effect:
- The search or interview shall be conducted in a respectful manner which recognizes the right to a fair hearing and avoids threat/duress.
  - The reason and purpose of the search or interview should be clearly stated.
  - All searches are to be conducted in the presence of another adult.

Reference: Section 85, 87, 109, 175, 231, *The Education Act, 1995*  
Section 11, 12, 81, *Child and Family Services Act*  
*Emergency Protection of Victims of Sexual Abuse and Exploitation Act*  
Provincial Child Abuse Protocol 2006

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